

State of Maine  
Office of Securities  
121 State House Station  
Augusta, Maine, 04333-0121

In Re:  
Kevin J. Nainiger

Consent Order  
12-8178

This is an order of the Securities Administrator issued under 32 M.R.S.A. § 16412 with the consent of Kevin J. Nainiger ("Nainiger") (CRD#2400386). Nainiger neither admits nor denies the Findings of Fact and Conclusions of Law set forth below, but agrees to the entry of this Consent Order, agrees that it shall have the same preclusive effect as an order issued after hearing and waives his right to a hearing and to judicial review.

**I. FINDINGS OF FACT**

1. Nainiger is a resident of Auburn, Maine. At all relevant times, Nainiger was licensed in Maine as an agent.
2. At all relevant times and until April 17, 2012, Nainiger was an agent of Commonwealth Financial Network ("CFN"), a broker-dealer licensed in Maine. Nainiger operated out of a CFN branch office in Lewiston, Maine.
3. On or about July 1, 2010, Nainiger purchased an apartment building from a North Bridgton, Maine, couple who were clients of Nainiger and CFN. Nainiger financed the transaction by borrowing \$140,000 from the clients and executed a promissory note and mortgage to that effect.
4. On April 17, 2012, CFN permitted Nainiger to resign after CFN concluded that Nainiger had violated FINRA Rule 3240 by obtaining a loan from the clients.

## **II. CONCLUSIONS OF LAW**

1. The Maine Uniform Securities Act grants authority to the Securities Administrator to take disciplinary action against a licensee if she determines that it is in the public interest and the licensee has engaged in unlawful, dishonest or unethical practices in the securities business. Under that authority, the Securities Administrator may “revoke, suspend, condition or limit the license of a licensee.” She may also “censure, impose a bar on or impose a civil fine in an amount not to exceed a maximum of \$5,000 per violation on a licensee.” 32 M.R.S. §§ 16412(1)-(4).
2. Maine Office of Securities Rule Chapter 504(8)(36) lists practices considered to be “dishonest or unethical” under 32 M.R.S.A. § 16412(4)(M) if committed by a broker-dealer or agent. Among the “dishonest or unethical practices” listed are: “lending money or securities to, or borrowing money or securities from, a customer” except under certain circumstances not present here.
3. By borrowing money from the clients, Nainiger “engaged in dishonest or unethical practices in the securities” business, and thus is subject to disciplinary action by the Securities Administrator. 32 M.R.S. § 16412(4)(M); Maine Office of Securities Rule Chapter 504(8)(36); FINRA Rule 3240; NASD Rule 2370.
4. This Consent Order is in the public interest because it will protect Maine investors by deterring future misconduct by Nainiger and others and by fostering public confidence in the securities industry.

## **III. ORDER**

1. Nainiger shall pay a civil fine of \$2,500. The fine is to be paid via check made payable to “Treasurer, State of Maine” and is due at the time Nainiger returns the Consent Order containing his signature to the Office of Securities. Failure to include payment in full with his signed copy of the Consent Order will suspend final execution of this Order by the Securities Administrator, at her discretion, until payment is received in full.
2. Should Nainiger become licensed in Maine as an agent, investment adviser, or investment adviser representative, any such license shall be subject to the following conditions and restrictions for a period of two years from the date of licensure:
  - a. Nainiger will not act in any principal, supervisory, or managerial capacity for a broker-dealer or investment adviser;
  - b. After learning of any investigation or proceeding initiated by any regulatory body, or written or oral customer complaint against him arising out of activities in the securities, insurance, or finance industry, Nainiger shall immediately send written notification to the Office of Securities and within 15 days provide the Office with copies of any written, electronic or other materials in his possession involving the investigation, proceeding or complaint;

- c. Any broker-dealer or investment adviser with which Nainiger is associated shall assign as Nainiger's supervisor an appropriately Maine-licensed person approved in advance by the Office; and
  - d. Any other conditions the Securities Administrator deems appropriate at the time of any new licensure.
3. Except as set forth above, the Securities Administrator agrees to take no action adverse to Nainiger based solely on the same conduct addressed in this Consent Order. However, nothing in this Consent Order shall preclude the Securities Administrator from: (a) taking adverse action based at least in part on other conduct; (b) taking this Consent Order and the conduct described above into account in determining the proper resolution of any action based on other conduct; or (c) taking any and all available steps to enforce this Consent Order.

Nainiger, by signing below, neither admits nor denies the Findings of Fact and Conclusions of Law set forth above, but agrees to the entry of this Consent Order, agrees that it shall have the same preclusive effect as an order issued after hearing, and waives his right to a hearing and to judicial review

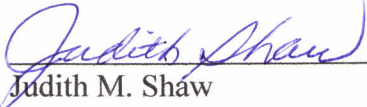
Date:

7/19/2012

  
Kevin J. Nainiger

Date:

7/20/2012

  
Judith M. Shaw  
Securities Administrator